



ZONING BOARD OF APPEALS MINUTES

January 11, 2012

The Lunenburg Zoning Board of Appeals held a public hearing on Wednesday January 11, 2012 at 7:00 PM. The hearing was held at the Lunenburg Town Hall, 2nd Floor Conference Room, 17 Main Street, Lunenburg, MA.

The petitioner David M. Barry, Trustee of the Diane L. Barry Revocable Trust, 265 Elmwood Road, Lunenburg, MA 01462 filed as a person aggrieved by the determination of Alternate Building Official Edward M. Cataldo. The zoning determination dated November 8, 2011 was regarding a home occupation and the parking of a commercial vehicle located at 263 Elmwood Road, Lunenburg, MA. The property is owned by Wayne D. & Sharon E. Albertini, Trustees of the Albertini Living Trust.

Board Members present: Donald F. Bowen, Chairman, Raymond Beal, James

Besarkarski, Hans Wentrup, Alfred Gravelle, David Blatt and Paul Doherty.

Others Present:

Attorney Louis Levine and members of the general public were in attendance.

7:00 PM The public hearing was opened and Chairman Donald Bowen introduced the Board members and explained the hearing procedure to the audience. Alfred Gravelle read the petition into the public record.

DISCUSSION

Donald Bowen, Chairman called the meeting to order and explained the hearing procedure to the audience. The Zoning Board of Appeals was in receipt of a letter dated November 11, 2011 regarding a decision by the Alternate Building Inspector Edward Cataldo with regard to a home occupation and the parking of a commercial vehicle located at 263 Elmwood Road, Lunenburg, MA. The petitioner was seeking to appeal the written decision of Alternate Building Commissioner; Edward M. Cataldo dated November 11, 2011.

Attorney Louis Levine served as counsel for the applicant. Originally Attorney Levine requested a determination regarding a home occupation for a business located at 263 Elmwood Road and Michael Sauvageau made a determination that the business was in

zoning violation. It was then deemed that the determination could not be made by Mr. Sauvageau as he is an abutter to the subject property. The matter was turned over to Mr. Edward Cataldo, Alternate Building Official.

Attorney Levine argues that if this is not a home occupation then a box truck should not be parked at the subject property. Mr. Levine had several photos of barrels that were delivered to the property with documentation regarding the FoamAlone Insulation business, a Florida based company that makes foam products. The implication is that the barrels contain chemicals that are used and mixed at the property for use in the insulation business. Attorney Levine indicated that the by-law does not allow the parking of a commercial vehicle (Box truck) in a residential neighborhood and that commercial vehicle must be garaged.

Paul Doherty made a visit to the property and noted that there were no barrels at the site. Chairman Bowen reminded everyone that issue in front of the Board is whether or not the box truck can be parked at the subject premises.

Edward Cataldo addressed the Board and outlined the Zoning by-law that defines a home occupation (Section 4.2.1.1.(m)3. Mr. Cataldo indicated that he has not seen any material storage or barrels at the site.

Further he quoted Section 4.2.1.1.m.3)d. "No storage of materials or equipment, regular parking of commercial vehicles or any other exterior indication that the premises are being utilized for a purpose other than residential". Mr. Cataldo's interpretation is that commercial vehicles imply a fleet, and that you are allowed one vehicle under the by-law as sited in Section 4.2.1.1.m)2.

Attorney Levine said that his client's greatest concern is the storage of chemicals and if no barrels are stored inside the garage or outdoors that everyone would be happy.

Donald Bowen says that it is simply insulation and that there is no evidence that it is anything else.

Hans Wentrup agreed and suggested that if there are fifty five gallon drums of chemicals it should be followed up as a safety concern for the neighbors. Alfred Gravelle agreed and said if red flags have been raised by the abutters then further investigation must take place by the building official. Raymond Beal was also in agreement.

Dr. Allen Hoffman-261 Elmwood Road also expressed concern with how the materials are stored and questioned whether or not it was an appropriate use.

David Blatt reminded the Board members that the issue before them was a determination on Mr. Cataldo's decision and not all of the other issues being discussed. Attorney Levine asked that the building inspector seek further information as to the nature of the materials and/or chemicals being stored at the subject property and disclose and identify any and all hazardous materials and demonstrate compliance with all applicable federal state and local regulations relative thereto as required by Section 6.6.14 of the By-law

After due deliberation Paul Doherty made a motion that the Alternate Building Inspector **did not** error in his decision. David Blatt amended the motion based on facts that the building inspector was correct in his findings. Mr. Blatt seconded the motion. Based on the evidence presented further investigation is needed to determine the scope of the home business and if it is a legal home occupation, The Board instructed the building inspector to investigate through all departments and proper authorities to look into the matter.

A meeting was scheduled for February 8, 2012 at 7:00 P.M. for a report from Mr. Cataldo.

All members voted to uphold the decision of the Alternate Building Official.

Hearing Adjourned at 9:35 P.M.

Minutes submitted by Lisa A. Normandin, Board Secretary

Approved by Chairman of the Board